

Court of Appeals, State of Michigan

ORDER

Jamella Nash v Gorski Bulk Transport Inc.

Docket No. 290704

LC No. 08-114048-NI

Christopher M. Murray
Presiding Judge

Michael J. Talbot

Cynthia Diane Stephens
Judges

The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's February 13, 2009 order is REVERSED to the extent it granted plaintiff's motion to strike defendants' notice of nonparty at fault. Where there is no evidence that the alleged nonparty at fault caused the damages the plaintiff is seeking to recover, the trial court may, as a matter of law, determine that fault cannot be allocated to that nonparty and strike the defendants' notice of nonparty at fault. See e.g., *Holton v A+ Insurance Associates Inc*, 255 Mich App 318; 661 NW2d 248 (2003). However, in this case, because, at the time plaintiff moved to strike the notice of nonparty at fault, discovery was not complete, the trial court's conclusion regarding the absence of evidence of fault on the part of the alleged nonparty at fault was premature.

This case is REMANDED to the trial court for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUN 03 2009

Date

Sandra Schultz Mengel
Chief Clerk